

Decision **DRAFT DECISION OF ALJ PULSIFER (Mailed 3/22/99****BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

Order Instituting Rulemaking on the
Commission's Own Motion into Competition for
Local Exchange Service.

Rulemaking 95-04-043
(Filed April 26, 1995)

Order Instituting Investigation on the
Commission's Own Motion into Competition for
Local Exchange Service.

Investigation 95-04-044
(Filed April 26, 1995)

O P I N I O N**I. Introduction**

By this decision, we formally approve the proposed overlay relief plan for the 650 Numbering Plan Area (NPA) based upon review of the alternatives as presented to the Commission by the North American Numbering Plan Administrator (NANPA) by transmittal letter dated January 22, 1999. The 650 NPA currently covers 15 rate centers within Local Access Transport Area (LATA) 722 principally located in portions of San Mateo and Santa Clara Counties. The 650 NPA boundaries, including rate centers and exchanges, are illustrated on the Appendix A map of this Order.

The 650 area code was created through a geographic split from the 415 NPA in 1997. At the time of its establishment in 1997, the supply of NXX codes in 650 NPA was projected to last until the second quarter of 2009. Yet, unanticipated demand has significantly reduced the expected life of the 650 NPA. The 650 area code now requires further relief to avoid running out of numbers based on the industry's currently projected exhaust date of the third quarter of 2001. Accelerated growth in the 650 area code will require continued use of extraordinary conservation measures by the industry to ensure available NXX codes last until the projected exhaust date. The demand for numbering resources in the 650 NPA is being stimulated by the introduction of competition in the local exchange market and accelerated demand for new services and rapid changes in technology.

The process for implementing new area codes in California is covered both by state statutes, applicable Commission decisions, and industry guidelines. California state statutes prescribes requirements for customer notification, establishment of new NPA boundaries and transitional dialing periods.

We have formulated statewide policies regarding area code relief through a series of decisions since 1995. Area code relief plans have become increasingly controversial in recent years as the demand for numbering resources has risen dramatically due to new technological advances in telecommunications and to the advent of local competition. We acknowledged the need for a comprehensive statewide policy on area code relief in connection with the proposed 310 NPA relief plan filed in 1995. We considered at that time the adoption of an overlay for the 310 NPA as an alternative to the traditional use of geographic splits. In Decision (D.) 95-08-052, we rejected the overlay option for the 310 NPA on the basis that, among other things, it was not at that time a competitively neutral relief remedy. We left open the prospect of considering an overlay as an option in future NPA relief plans once the anticompetitive aspects of the overlay could be overcome. We further directed that the Local Competition Docket be used to develop a comprehensive statewide policy regarding NPA relief.

On August 2, 1996, we issued D.96-08-028, adopting certain initial measures as part of a statewide policy on area code relief. We concluded in D.96-08-028 that as a condition for consideration of the overlay as a relief option, the overlay must be competitively neutral. We also established two prerequisites at a minimum for competitive neutrality. These were: (1) mandatory 1+10-digit dialing for all calls within the service areas subject to the overlay;¹ and (2) the full implementation of permanent local number portability (LNP) within the service

¹ In D.96-12-086, we ruled not to adopt statewide mandatory 1+10-digit dialing concurrently with the first overlay. We concluded that the advantages of preserving seven-digit dialing, for as many customers and for as long as possible, outweigh any potential customer confusion resulting from instituting mandatory 1+10-digit dialing only in those regions subject to overlays.

area subject to the overlay. We determined that a further record needed to be developed regarding the relative merits of overlays versus splits once anticompetitive impediments could be overcome.

On December 20, 1996, the Commission released D.96-12-086, further expanding on the policy regarding the use of overlays once the competitive impediments could be resolved. In D.96-12-086, we evaluated the relative merits of splits versus overlays in terms of how consumers would be impacted differently with an overlay versus a geographic split. In particular, we reviewed consumer surveys conducted by various parties concerning preferences for overlays and geographic splits as a means of creating new area codes. In that decision, we concluded that, at least for the near term, customers were better served with the geographic split option. We directed that splits should continue to be used for relief plans which would take effect at least through the year 2000, with the exception of the 310 NPA.

Since the proposed 650 NPA relief plan implementation date would occur after the end of the year 2000, the D.96-12-086 limitation of relief options to geographic splits would not apply. The Industry has also reached consensus, however, to propose as an alternative, an acceleration in the overlay area code implementation date to occur as early as September 16, 2000, with mandatory 1+10-digit dialing to begin on June 17, 2000. Such an accelerated implementation is proposed as an exception in the policy adopted in D.96-12-086 that new area codes are to be implemented by geographic split prior to January 1, 2001. The Commission has opened R.98-12-014 to develop a NPA relief planning policy on a prospective basis. For purposes of the present 650 NPA proposal, we shall evaluate it based on its own merits. In D.97-08-065, we required that an overlay be evaluated in reference to the same criteria applicable to a geographic split.

In D.96-12-086 we developed necessary conditions which must be met in order to justify approval of an overlay. We required that a customer education program be instituted at least 12 months before an overlay would take effect, explaining the new mandatory 1+10-digit dialing requirements and the overlay plan to the public. We also required that upon approval of any overlay, the code administrator and telecommunications industry members were to:

- a. Notify the nationwide industry, the national code administrator, and customers of the proposed dialing plan change.
- b. Educate customers, industry, and internal employees on the dialing plan change.
- c. Correct signage for dialing instructions on payphones and in directories.
- d. Perform switch translation work for implementing mandatory dialing (12 weeks prior to cutover).
- e. Simultaneously with the cutover, institute customer instructional announcements for misdialed seven-digit calls.

In addition to the requirements imposed by the Commission, the Federal Communications Commission (FCC) issued its own requirements in FCC Order 96-333 with respect to overlays. In particular, the FCC required that every carrier was to be assured of at least one NXX code in the existing area code during the 90-day period preceding the introduction of the overlay. The FCC also required mandatory 1+10-digit dialing for an overlay. The FCC also, in a separate order, prohibited the use of overlays which apply only to specific services such as cellular. (Declaratory Ruling and Order, FCC Docket 95-19, IAD File No. 94-102, adopted January 12, 1995.) Based upon these policies, we now

consider the proposed options submitted by the NANPA for relief in the 650 NPA.

II. Industry Relief Planning Process

The planning process for NPA relief is established in the industry-approved document INC 97-0404-016 “NPA Code Relief Planning and Notification Guidelines,” to be used by NPA Relief Coordinators. The document lists the assumptions, constraints, and planning principles used in NPA code relief planning efforts. It also lists the steps of the NPA code relief planning process and describes the alternative methods of providing NPA code relief and their characteristics. Industry meetings were conducted to develop alternatives for exhaustion relief in the 650 NPA, based on prescribed criteria which had been used by the industry for previous relief plans.² The criteria are:

1. Minimize end users’ confusion.
2. Balance the cost of implementation for all affected parties.
3. Provide that customers who undergo number changes shall not be required to change again for a period of eight to ten years.
4. Not favor a particular interest group.
5. Cover a period of at least five years beyond the predicted date of exhaustion.
6. Provide that all of the codes in a given area shall exhaust about the same time in the case of splits. In practice, this may not be possible, but severe imbalances, for example, a difference in NPA lifetimes of more than 15 years, should be avoided.

² The criteria are based on the INC 97-0404-016 “NPA Code Relief Planning and Notification Guidelines.”

7. Comply with state and federal statutes, rulings and orders.

By letter to the assigned Administrative Law Judge dated January 22, 1999, Lockheed Martin IMS, in its role as the North American Numbering Plan Administrator (NANPA), on behalf of the telecommunications industry in California, presented a NPA relief plan for the 650 area code.

The proposed plan was developed by representatives of the California telecommunications industry in meetings facilitated by NANPA using a consensus decision making process and following industry approved NPA relief planning guidelines. Important input to the relief plans was provided at public meetings required by Public Utilities (Pub. Util.) Code § 7930(b), which were conducted in October 1998, and a local jurisdiction meeting, which was held with city and county government representatives on September 2, 1998.

The NANPA convened a series of industry meetings beginning in June 1998, attended by members of the telecommunications industry planning team to discuss and develop relief alternatives for the 650 NPA. This team is composed of the Lockheed Martin - NANPA, California Public Utilities Commission (CPUC) staff and current code holders: local exchange carriers, interexchange carriers, wireless carriers and competitive local carriers. As a result of the industry meetings, the industry reached consensus³ to forward Alternatives 4, an overlay plan, to the Commission for a final decision.

³ The INC 97-0404-016 “*NPA Code Relief Planning and Notification Guidelines*” defines the term “consensus” for use in the planning process as follows:

“Consensus is established when substantial agreement has been reached among interest groups participating in the consideration of the subject at hand. Interest groups are those materially affected by the outcome or

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III. Public Notification and Meetings

Industry meetings began in June 1998 to develop alternatives for 650 NPA exhaust relief. This established the two-year advance notification under the then-current requirement Pub. Util. Code § 7930.

A Local Jurisdiction meeting for city and county government representatives was held on September 2, 1998. The purpose of this meeting was to provide jurisdictions with a status on the 650 NPA-relief process and to gather additional information. Representatives were asked to express their support for the alternatives by filling out a “show-of-interest” form.⁴

The industry presented one overlay plan (Alternative 4), and alternative versions of geographic split plans (Alternatives 5A & 5B) at the Local Jurisdiction meeting. Comments received at the local jurisdiction meeting included suggestions to consider a three-way split alternative to provide longer relief, and sentiment from each jurisdiction to retain the 650 NPA.

Following the Local Jurisdiction meeting, the industry met to determine which relief alternatives to present to the public. It was decided to present two variations of geographic splits: Alternative 5A & 5B and a new Alternative 6A & 6B developed based on local jurisdiction input,⁵ as well as Alternative 4 (an overlay).

result. Substantial agreement means more than a simple majority, but not necessarily unanimity.”

⁴ While the show-of-interest is not intended to be a popular voting mechanism, it does provide the industry with a means of getting input on relief alternatives. The show-of-interest also provides the industry a method of gathering comments and issues from those in attendance.

⁵ Alternative 5A/B would require a geographic split of the northern and central portions of the 650 NPA. Appendix B depicts the geographic boundaries of the

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Public meetings were required to occur within six months of the initial customer notification, i.e., by December 1998. The industry team held four public meetings, (one more than required per Pub. Util. Code § 7930). The industry, NANPA and the CPUC jointly conducted public meetings in Palo Alto and in Half Moon Bay on October 6, 1998 and in South San Francisco and San Mateo on October 7, 1998. The combined show-of-interest selections from both the Local Jurisdiction and Public Meetings resulted in the following results:

- 27 indicated a preference for Alternative 4
- 15 indicated a preference for Alternative 5A
- 2 indicated a preference for Alternative 5B
- 6 indicated a preference for Alternative 6A
- 2 indicated a preference for “Alt. 4 or Alt. 6A”
- 0 indicated a preference for Alternative 6B
- 12 indicated a preference for other or none of the above

There was a dominant expression of support for Alternative 4, the overlay. Alternative 5A was the second most favored alternative (a split) though it received substantially less support than the overlay plan.

IV. Proposed Plan

The industry reached consensus on presenting one single plan, Alternative 4, the overlay plan for Commission approval. Alternative 4 introduces a new overlay area code in the same geographic area as the existing 650 area code, and allows all existing customers to retain their 650 area code for currently assigned telephone numbers. The overlay requires that all customers

Alternative 5A/B area code split. Alternative 6A/B is a variation of 5A/B which would limit the northern area code to only five rate centers as depicted in Appendix C.

(in the 650 area code and the new overlay area code once it takes effect) dial 1 plus the area code plus the seven-digit number for all calls beginning January 20, 2001. The proposal calls for the new overlay area code to take effect on April 21, 2001. The industry asks the Commission to decide the scope and timing of a customer education plan associated with this relief plan.

As a result of the shortage of available NXX codes in the 650 NPA, parties joined in a consensus that the NANPA request that the Commission consider an accelerated implementation schedule for the recommended relief plan. Based on when a plan is approved, the industry believes accelerated implementation of the overlay could occur as early as September 2000. The industry believes the Commission should allow for an accelerated overlay schedule only to the extent that an effective and comprehensive education program is implemented in a timely manner.

Two position papers were filed regarding the 650 NPA relief plan options. The first position paper was jointly sponsored by GTE California Incorporated, Pacific Bell, and PageNet. The parties to the first position paper emphasize that Industry reached consensus on the overlay and support its adoption. Because customers would prefer a 650-NPA number to a number from the new overlay NPA, carriers would tend to quickly deplete all remaining NXX codes in the 650 NPA to the exclusion of codes in the new NPA unless 650 NPA lottery rationing is continued until codes are exhausted.

At the Industry Planning meeting for the 650 NPA, industry participants accordingly agreed that if an overlay is approved for the 650 NPA, the remaining NXX codes in the 650 NPA would not be removed from the lottery, but would continue to be rationed via the lottery process after the new NPA opens until such codes are exhausted.

A second position paper was filed by the California Cable Television Association (CCTA). CCTA observes that public input garnered from the four public meetings concerning the relief of the 650 NPA showed mixed support (and opposition) to both split and overlay proposals presented. CCTA believes a case can be made for either plan.

CCTA focuses its concern on the need for meaningful code optimization measures and accurate code utilization forecasting methods. CCTA argues that existing NXX code forecasting methodologies are grossly antiquated, and have led to the need for another round of 650 NPA relief even though the NPA was opened only two years ago.

CCTA urges the Commission to actively pursue the expedient implementation, both on the state and federal level, of accurate forecasting methodology to spare future NPAs from the 650 NPA fate. CCTA also urges the Commission to actively participate in the national forums that have been formed under the auspices of the FCC to improve the utilization of available numbering resources.

V. Discussion

We conclude that the proposed 650 NPA overlay would best satisfy the criteria for evaluation of relief plans as identified by the industry team, and accordingly adopt it as the best overall remedy for NXX code relief. The potential merits of an overlay in comparison to geographic splits were considered in the consumer surveys reviewed in D.96-12-086 in which respondents expressed preferences for splits or overlays. Although respondents in the survey expressed a greater preference for splits, compared with overlays, at the time the survey was taken, the 650 NPA had not yet entered into the current phase of code exhaustion, for which yet another round of NPA relief is

required. The results of the previous consumer-preference poll must be weighed in light of the increasing hardship of cumulative changes in area code, and the difficulty in fairly devising successive splits of the same NPA over time.

We shall adopt the Industry proposal to accelerate the implementation date for opening the 650 NPA overlay area code to September 16, 2000 to accommodate earlier relief of NXX code exhaust. The acceleration of the opening of the area code overlay to September 16, 2000, is appropriate in this instance since it will provide access to numbering resources on a more timely basis. The shortage of NXX codes limits the ability of carriers to obtain the necessary numbering resources to offer local service within a given NPA. By delaying the opening of the area code overlay until April 2001, carriers would be deprived of NXX codes from the opening of the overlay, thus further constraining their ability to provide numbers to their customers. The accelerated opening of the overlay to September 16, 2000, will permit carriers to use NXX codes from the overlay NPA earlier than would otherwise be possible. The accelerated opening of the overlay area code should also still provide sufficient time to prepare the public for mandatory 1 + 10-digit dialing and to educate them concerning the novel nature of the overlay concept. It is important that the public be given an adequate amount of time to prepare for the overlay implementation in order to minimize any disruptive effects which might otherwise occur. The acceleration of the opening of the new area code to September 16, 2000 should provide sufficient lead time to accommodate the minimum 12-month advance customer notice requirement pursuant to Pub. Util. Code Section 7931(f).

As discussed below, we also conclude that the accelerated start date should provide sufficient lead time to satisfy competitive neutrality criteria. The early implementation date for the overlay thus warrants a limited exception to the policy adopted in D.96-12-086 calling for the continued use of geographic

splits for area code relief implemented prior to the January 1, 2001. We authorize this exemption to our policy in D.96-12-086 for the 650 NPA based on the specific circumstances before us here. Our generic policy adopted in D.96-12-086 calling for the use of geographic splits for area code relief implemented prior to January 1, 2001, otherwise remains in effect. Our authorization of an accelerated implementation of the 650 NPA overlay in no way prejudices the outcome of our deliberations in R.98-12-014 concerning the prospective Commission policy regarding area code relief methods.

In previous NPA relief plans, certain industry members had not supported an accelerated schedule for an overlay implementation due to concerns that remaining NXX codes in the existing NPA would be taken out of the lottery upon the opening of the overlay NPA, and such codes would become quickly exhausted, because customers would prefer a number in the original NPA to a number in the new NPA.

Such a concern was raised at the Industry Planning Meeting for the 650 NPA at which time participants agreed that if an overlay is approved for the 650 NPA, the remaining NXX codes in the 650 NPA would not be removed from the lottery, but would continue to be rationed via the lottery process after the new NPA opens until such codes are exhausted. We shall adopt this requirement and continue lottery rationing of NXX codes in the 650 NPA.

While either the overlay or a geographic split will have certain disruptive impacts on customers in the 650 NPA to the extent they each change the status quo, we believe the overlay will have less adverse overall impacts in this instance. Particularly in geographically small, densely populated regions, such as the 650 NPA, which have been subject to progressive shrinkage through previous NPA splits, it becomes increasingly difficult to perpetuate a further splitting of the NPA. Customers in the 650 NPA have just gone through the

415/650 NPA split which was initiated in 1997. As the 650 NPA faces the prospect of even further shrinkage in the current proposal before us, it becomes increasingly difficult to draw boundaries that minimize splitting local communities, consistent with Pub. Util. Code § 2887(a). The drawing of boundaries becomes ever more contentious with each subsequent split.

The overlay avoids the problems involved with the continual geographic splitting of local communities, by leaving existing boundaries intact. The overlay also avoids the need for existing customers to change their area code, the economic hardships resulting from business having to notify customers of area code changes, and to change business cards, letterheads, etc. While the overlay avoids these problems, the overlay is not without its own issues. For example, while the NPA boundary would not change, the defining feature of the boundaries would itself change. In other words, the geographic boundaries would no longer define a single NPA, but two (or more) NPAs. Thus, one of the advantages of having geographically-defined NPA boundaries (i.e, as a means of common identification) will over time become less meaningful as multiple NPAs within a single geographic region proliferate. The area code in an overlay signifies *when* the customer was assigned the number rather than *where* geographically the number is located. Thus, for example, a business may consider an assignment of the overlay NPA less desirable than the original NPA which is assigned to a neighboring business, particularly when the NPA is first introduced. Customers may perceive the business with the new NPA to be newer or less established than the neighboring business that retains the more recognized original NPA. Therefore, the advantage of the overlay in avoiding new geographic splits must be weighed against the drawback that it also tends to obscure the traditional use of NPAs as a common geographic bond of local communities of interest.

Another drawback of an overlay which customers will experience is the loss of seven-digit dialing for calls within the same NPA. In the consumer preference surveys reviewed in D.96-12-086, customers generally placed significant value on the ability to dial only seven digits for calls within the NPA. Yet, we must weigh the value of seven-digit dialing against the other problems involved in a split of the 650 NPA. As further splitting occurs, the percentage of calls which require dialing a separate area code increases. As the proliferation of new area codes continues to fragment previously homogenous NPA regions, therefore, the relative advantages of seven-digit dialing applies to a continually shrinking pool of numbers. Likewise, as this trend progresses, the relative advantages of geographic splits compared with overlays become less apparent.

We are concerned that the public becomes properly educated concerning the impacts of the changes resulting from the overlay, including targeted outreach particularly to those public sectors with special needs such as children, the elderly and disabled, and non-English-speaking customers. To address this concern, we have previously mandated that a comprehensive public education program (PEP) be conducted as a prerequisite to implementation of an overlay. We have already mandated such PEPs as precursors to the overlays approved for the 310 and 408 NPAs. We shall likewise approve such a program for public education and acceptance of the overlay in this instance.

We believe that the 650 NPA overlay can be implemented in a competitively neutral manner. As previously stated, one of the prerequisites of competitive neutrality is full implementation of permanent LNP. Under the schedule adopted by the FCC, implementation of permanent LNP was to be concluded by December 31, 1998, in the 100 largest metropolitan service areas (MSAs) nationwide. Since the overlay area code will not go into effect until September 16, 2000, however, the industry will still have additional time within

which any debugging of LNP startup problems can be resolved. As a cautionary measure, however, we shall require Pacific to file a report with the Commission, and to serve it on parties of record by July 7, 1999, regarding the status of full LNP implementation in the 650 NPA as of June 30, 1999, including identifying and rectifying an LNP-related call completion problems. In view of these measures, we conclude that the proposed 650 NPA overlay satisfies the criterion that permanent LNP be available at the time the overlay is to take effect.

Another potential problem with the overlay is that customers who seek to add additional lines at the same location after the overlay takes effect may only be able to obtain the additional lines under the new area code and thus be left with two area codes for multiple lines in the same location. The only alternative, if they wish for all their lines to be in one NPA, would be to change the original numbers' area code, thereby losing one of the presumed advantages of the overlay. If the customer's local service provider has a remaining inventory of NXX codes within the 415 NPA, the provider presumably could offer the customer an additional line within the same NPA. We are concerned, however, with the potential for certain carriers, particularly the ILECs, to gain a competitive advantage by being able to assign new numbers using the 650 NPA while new entrants with limited NXX codes in the 650 NPA may have to rely on the new NPA for making number assignments. We shall not resolve this issue in this decision, but will consider in a subsequent order what measures may be appropriate with respect to the assignment of numbers from NXX codes in the 650 NPA after the overlay NPA is initiated in order to promote competitive neutrality among carriers.

We also place a high priority on promoting the development of measures to ensure the efficient utilization of NXX codes and to prevent number hoarding so that carriers are not competitively disadvantaged by lack of access to

numbering resources. Number pooling is one essential tool to make more efficient use of NXX codes. Parties previously addressed the prospects for developing number pooling, as well as other code conservation measures, in comments filed in this docket on February 25, 1998 with replies on March 13, 1998, in response to an ALJ ruling dated January 13, 1998.

Number pooling can promote more competitively neutral access to numbering resources for all participating carriers by enabling multiple carriers to share a single NXX code through the technology associated with permanent LNP. There are numerous and substantial technical, administrative, and cost issues related to number pooling, however, that must be addressed. In particular, more intensive tracking of number allocation will be required. An audit of code utilization within the industry will be required to determine the maximum number of NXXs or blocks of 1,000 numbers that can be recovered from pooling participants for sharing. Some degree of NXX code utilization does not automatically disqualify an NXX from being shared. The Industry Numbering Committee (INC) has recommended that the degree of “contamination” (i.e., prior usage) that should be allowed for a block of 1,000 numbers to be considered for the pool is 0% to 10%. Yet, some providers have urged a much higher level of contamination be allowed in order to achieve a greater degree of number efficiency.

As a step toward the establishment of number pooling, we shall direct the assigned ALJ to solicit comments concerning what sorts of NXX code reporting requirements or other measures may be appropriate to protect existing 1,000-number blocks from undue “contamination” pending the implementation of number pooling. We shall place a high priority on the expedited implementation of number pooling in the 650 NPA.

In D.98-08-037, we directed that workshops be convened to begin the implementation of number pooling and rate center consolidation. Workshops have been held to work toward instituting number pooling. We directed that the industry submit a schedule for implementation by March 31, 1999. On March 24, 1998, the NANC created a Numbering Resource Optimization Working Group (NRO-WG) to address issues of number availability and conservation. The Common Carrier Bureau (Bureau) of the FCC has requested that NANC report on national number pooling standards, in sufficient detail to support, both technically and operationally, a uniform, nationwide system for pooling by December 1999. The adoption of an overlay of the 650 NPA by September 2000 would thus take place after the scheduled date for a nationwide number pooling system to be in place.

VI. Availability of NXX Codes to Meet FCC Requirements

In view of the contingency measures we adopt herein, we conclude that sufficient NXX codes will be available to permit the NANPA to assign at least one code in the 650 NPA to each certified carrier within the service area that does not presently have one, as required by the FCC. As we noted in D.98-05-021, it takes 66 days for the NANPA to complete the code opening process. A schedule thus is needed for carriers to notify the NANPA of their code orders sufficiently in advance to allow the codes to be opened on a timely basis. We shall therefore direct that any presently certificated facilities-based CLC which has not previously been assigned a 650 NPA NXX code shall file a "Statement of Intent" with the NANPA if it seeks to be assigned such a code. These statements shall be filed by September 30, 1999. Likewise, any new facilities-based CLCs becoming certificated between September 30, 1999, and the activation of the overlay NPA in September 2000 shall be required to notify the NANPA within 30

days of certification if they intend to request a 650 NPA NXX code prior to September 2000. We shall direct the NANPA to reserve the requisite codes to satisfy the FCC code assignment requirement as of the effective date of this order. Any CLC that is awarded a code in the 650 NPA through the lottery shall be removed from the list of carriers eligible for a 650 NXX code assignment under the FCC requirement. We shall also direct the NANPA to impose a freeze on lottery code assignments during the 90 days preceding the overlay opening. The Commission on its own motion or at the request of the NANPA may reevaluate this freeze as the implementation date of the overlay approaches and the availability of NXX codes thus becomes more predictable. The remaining NXX codes shall be reserved during the final 90 days for assignment to new entrants in the 650 NPA region which have not previously received an NXX code in the 650 NPA. Therefore, with these measures in place, we conclude that there will be sufficient codes to permit each carrier to receive at least one code in the 650 NPA during the 90 days prior to the overlay taking effect.

VII. Customer Education Program Regarding Mandatory 1+10-Digit Dialing and the Overlay

In D.96-12-086, we recognized that the introduction of an overlay together with mandatory 1+10-digit dialing will be a novel innovation and require a transitional period for customers to become accustomed to the change. Customers within the boundaries of the overlay will have to adjust to dialing 1+10-digits when calling numbers even within their own NPA. In order to address the need for customer familiarity with the new dialing pattern for the overlay NPA, we ruled in D.96-12-086 that a customer education program begin no later than 12 months prior to the implementation date for the overlay.

We recently approved a public education plan (PEP) for the 310/424 NPA overlay in D.98-12-081. We shall direct that the industry implement a similar

PEP for the 650 NPA overlay, drawing upon the experience acquired from the 310/424 PEP. The formulation of the PEP for the 650 NPA overlay should also be done on a coordinated basis with any other overlays approved for the Bay Area scheduled to be implemented in a similar timeframe.

We identified in D.96-12-086 certain minimum elements to be included in any PEP in conjunction with an overlay. For example, the plan must explain why mandatory 1+10-digit dialing is a necessary feature of an overlay relief plan. Customers must be informed that the change in their dialing patterns resulting from an overlay will not affect the distinction between local and toll calls, nor the rates charged for the different types of calls. For the 310 NPA overlay, we required that the education plan should focus particular attention on the education of children as well as to the elderly and disabled, in addition to non-English speaking customers. The PEP for the 650 NPA overlay should incorporate similar appropriate measures to communicate the change to each of these groups.

The public education program should also give priority to notifying those entities which will need to reprogram equipment to change to mandatory 1+10-digit dialing. For example, electronic security alarm companies and those with PBXs need to be contacted as soon as possible to allow them maximum lead time to reprogram equipment to accommodate mandatory 1+10-digit dialing.

The education program must also permit callers to easily locate the correct area code for a given number and to know that the 1+ the area code must be dialed preceding any number within the region subject to the overlay. Under the current dialing plan, customers dial 411 for directory assistance to locate numbers within the same NPA, and 555-1212 preceded by the area code, if the number is within a different NPA. The PEP must inform customers how to dial directory assistance to locate numbers applicable to different area codes within

the same overlay region. In addition to billing inserts and public service announcements, changes will also be necessary in published telephone directories covering the NPA overlay region to identify the area code in addition to the seven-digit number for each directory listing. Payphone signage must also be updated in the NPA overlay region to reflect the 1 + 10 digit dialing change associated with the overlay.

The education program must be conducted not merely within the service territory covered by the 650 NPA, but must also focus on customers in adjacent NPAs. Proposals are also pending for approval of overlays in the neighboring 415 NPA and 510 NPA. We have also recently approved an overlay in the 408 NPA, just to the south of the 650 NPA. Coordination and consolidation of the PEP among the various Bay Area NPAs subject to an overlay is warranted as a way to make the most efficient use of resources. Particularly because the 1+10-digit dialing requirement will only apply in the regions subject to an overlay, customers will need to be informed that the revised rules will not apply outside of the geographic boundaries of the 650 NPA and adjacent NPAs which are also subject to an overlay.

Although customers outside of the 650 NPA and adjacent NPAs subject to overlays will not be required to dial 1+10 digits for calls within their own NPAs, they will still be impacted by the 650 NPA overlay dialing requirements to the extent they temporarily visit the 650 NPA region and make calls within that region. To a lesser extent, some level of public education regarding the overlay needs to be conducted on a statewide basis, recognizing that California is a highly mobile state, and residents from other California regions may travel into the 650 NPA calling area. Likewise, a statewide public education program will facilitate public acceptance of any future overlays which may be approved for other NPAs within California.

As we concluded in D.98-05-021, the Pub. Util. Code § 7931 requirement for a permissive and mandatory dialing period was only intended to apply where existing area codes are changed as part of a geographic split relief plan under the terms of Section 7931. The permissive and mandatory dialing periods provide an opportunity for customers to become accustomed to the change in dialing requirements as a result of an area code change. Since existing numbers do not change in an overlay, the requirement for permissive and mandatory dialing in the context of an area code change for existing numbers, as would be the case in a split, does not apply. Customers still need a transitional adjustment period, however, to become acquainted with mandatory 1+10-digit dialing and the notion of “twin” area codes within a single geographic area.

Although the overlay does not involve a “permissive” dialing period as narrowly defined in Section 7931 (i.e., where the caller can reach the same party by dialing either the old or new area code), a “permissive” dialing period is still relevant to the overlay in a broader sense. We shall use the term “permissive” dialing period in connection with an overlay to refer to the period during which customers can reach the same party by dialing either seven digits or 1+10-digits. Customers are permitted, but not required, to use 1+10-digit dialing during this period.

As part of the customer education program for the 650 NPA overlay, we shall require that a formal “permissive” dialing period be instituted beginning no later than September 18, 1999 to coincide with the customer education program. To the extent that any carriers providing local service within the 650 NPA do not presently offer their customers the capability to dial 1+10-digits within the same NPA, we shall require them to make permissive 1+10-digit dialing available to their customers by September 18, 1999. During the permissive dialing period, customers should be encouraged to voluntarily dial

1+10-digits for calls within their NPA as part of the education program for the overlay.

In D.96-12-086, we directed that, upon activation of mandatory 1+10-digit dialing, customers who attempt to dial seven digits will hear an instructional recording informing them of the 1+10-digit dialing requirement. In the interests of minimizing customer confusion, mandatory 1+10-digit dialing should take effect prior to initiation of the new overlay area code. In this way, customers will already have become somewhat accustomed to dialing 1+10-digits before they have to make the further adjustment of distinguishing between two different area codes within the same geographic calling area. We shall therefore approve the proposed schedule for mandatory 1+10-digit dialing to take effect in the 650 NPA on June 17, 2000. We shall require that all telecommunications carriers institute an instructional announcement directing callers to dial 1+10-digits effective by this date to be continued indefinitely after the date mandatory 1+10-digit dialing is implemented in the 650 NPA as a result of the overlay. With this measure in place, customer confusion should be minimized, even for visitors from other areas that are subject to different dialing patterns. With repeated usage over time, public familiarity and acceptance of 1+10-digit dialing should increase.

We shall direct the NANPA to convene an industry meeting within 60 days following the effective date of this decision for the purpose of addressing the implementation details of the public education program for the overlay to include, at a minimum, the elements discussed above. The program should give first priority to the 650 NPA and surrounding areas, and should provide for a combination of press releases, television and radio announcements, and billing inserts discussing the effects of the overlay. The industry team shall submit a draft of the proposed public education program to the Commission's Consumer

Services and Telecommunications Divisions and Public Advisor's Office for Commission review and approval, to be scheduled by ALJ ruling. The Public Advisor will work in cooperation with the Consumer Services and Telecommunications Divisions, the assigned ALJ, the Coordinating Commissioner for telecommunications and the Assigned Commissioner in reviewing the proposed plan.

VIII. Conclusion

On balance, we conclude that, while either an overlay or a geographic split entail certain adverse impacts to the extent they disrupt the status quo, the proposed overlay will have less overall adverse impacts than any geographic split alternative for the 650 NPA. We believe the problems with an overlay can be adequately mitigated through appropriate customer education and through the practical experience of customers making calls within region subject to the 650 NPA overlay. Accordingly, we approve the overlay option for the 650 NPA, and direct NANPA and the Industry Team to move expeditiously to implement the overlay to relieve exhaustion of the 650 NPA.

IX. Comments on Draft Decision

The draft decision of the ALJ in this matter was mailed to the parties in accordance with Pub. Util. Code § 311(g) and Rule 77.1 of the Rules of Practice and Procedure. Comments were filed on _____, and reply comments were filed on _____.

Findings of Fact

1. Area code relief is needed due to the impending exhaustion of NXX codes in the 650 NPA projected to occur during the third quarter of 2001.

2. NANPA convened a series of meetings with the telecommunications Industry Planning Team to discuss and develop relief alternatives for the 650 NPA.

3. The industry team eliminated alternative plans which failed to meet the designated criteria, and reached consensus on an overlay relief plan.

4. The Commission has stated in D.96-08-028 that “before an overlay could be approved, there must be reasonable assurance that permanent LNP would be fully implemented before the overlay became operational.”

5. Without permanent LNP, an overlay in the 650 NPA would not be competitively neutral.

6. Absent the availability of LNP, customers subject to an overlay might have to change their area code merely as a result of changing service providers, placing CLCs at a competitive disadvantage.

7. FCC Order 96-286 established that all carriers, both incumbents and new entrants, must provide LNP in the 100 largest MSAs to all requesting telecommunications carriers, by December 31, 1998.

8. Under the schedule adopted by the FCC, LNP deployment in the 650 NPA service area was to be completed by December 31, 1998.

9. By any reasonable measure, there is an ample cushion of time to allow for any remaining debugging of the LNP implementation and still have LNP fully operational within the 650 NPA before the scheduled opening of the overlay.

10. FCC Order 96-333 required that every carrier was to be assured of at least one NXX code in the existing area code during the 90-day period preceding the introduction of any overlay which may be approved and also required mandatory 1+10-digit dialing for an overlay.

11. In view of the contingency measures adopted in this decision, sufficient NXX codes will be available to permit the NANPA to assign at least one code in

the 650 NPA to each certified carrier within the service area who does not presently have one during the last 90 days preceding the opening of the overlay, as required by the FCC.

12. Since it takes 66 days for the NANPA to complete the code opening process, a schedule is needed for carriers to notify the NANPA of their code orders sufficiently in advance to allow the codes to be opened on a timely basis.

13. The Pub. Util. Code Section 7931 requirement for a permissive and mandatory dialing period only applies where existing area codes are changed as part of a relief plan to acquaint customers with the area code change.

14. Since the area code for existing telephone numbers does not change in an overlay, the permissive or mandatory dialing as defined in Pub. Util. Code Section 7931 does not apply, although a transitional period is still need to educate customers before a new area code overlay is established through an overlay.

15. D.96-12-086 required mandatory 1+10-digit dialing within the region subject to an overlay to prevent an anticompetitive dialing disparity between customers of competing carriers who lacked equivalent access to NXX codes in the old NPA.

16. D.96-12-086 required that a customer education program be instituted at least 12 months before an overlay would take effect explaining the new mandatory 1+10-digit dialing requirements and the overlay plan to the public.

17. D.96-12-086 directed that, upon activation of the overlay area code, customers who dial seven digits will hear an instructional recording informing them of the 1+10-digit dialing requirement.

18. D.96-12-086 identified certain minimum elements to be included in the customer education plan, including an explanation why mandatory 1+10-digit

dialing is necessary, and assurance that the change in their dialing patterns will not affect the rates charged for calls.

19. The results of the consumer preference poll reviewed in D.96-12-086 must be evaluated in light of the increasing hardship of cumulative changes in area code, and the difficulty in fairly devising successive splits of the same NPA over time.

20. As the 650 NPA faces further potential shrinkage in view of the need for further area code relief, the drawing of area code boundaries that minimize the splitting of local communities becomes increasingly difficult.

21. The shorter the NPA life, the more frequently customers must be subjected to the disruptions and hardships that come with changing area codes yet again in the case of geographic splits.

22. The overlay avoids the contentiousness of drawing new NPA boundaries by leaving existing boundaries intact, and avoids the need for existing customers to change their existing telephone number area code.

23. Over the long-term, overlays tend to divide communities inasmuch as communities will not be identifiable by a single area code. Over the long term, this effect may be more pronounced than the community rifts that are introduced by area code splits.

24. A geographic split creates economic hardships particularly on affected businesses which must notify customers of area code changes, and change business cards, letterheads, advertisements, etc.

25. With an overlay, geographic boundaries no longer define a single NPA, thereby eliminating the advantage of having geographically-defined NPA boundaries as a means of identifying and unifying communities of interest.

26. A business may consider an assignment of the overlay NPA less desirable than the original NPA, since customers may perceive the business with the new

NPA to be newer or less established than the neighboring business that retains the more recognized original NPA.

27. Pacific possess the majority of NXX codes in the 650 NPA, and like other carriers may seek to offer numbers to customers from NXX codes in the 650 NPA after the overlay as a marketing tool.

28. Number pooling can promote more competitively neutral access to numbering resources for all participating carriers by enabling multiple carriers to share a single NXX code through the technology associated with permanent LNP.

29. An audit of code utilization within the industry will be required to determine the maximum number of NXXs or blocks of 1,000 numbers that can be recovered from pooling participants for sharing.

30. With an overlay, customers will experience the loss of seven-digit dialing for calls within the same NPA.

31. In the consumer preference surveys reviewed in D.96-12-086, customers placed significant value on the ability to dial only seven digits for calls within the NPA.

32. Although customers in the 650 NPA may already be accustomed to dialing 1+10 digits for a portion of their calls, the overlay will still require them to learn that calls within the same area code also require 1+10-digit dialing.

33. With the overlay, customers with multiple lines at the same location seeking to add additional lines may only be able to obtain the additional lines under the new area code, resulting in two area codes at the same location.

34. While both the overlay and geographic split have certain adverse impacts, the overlay will have less overall adverse impacts than the geographic split alternative proposed for the 650 NPA.

Conclusions of Law

1. The adopted relief plan should be the alternative which best satisfies the criteria applied by the Industry Team in their selection of relief alternatives, namely:

- a. Minimize end users' confusion.
- b. Balance the cost of implementation for all affected parties.
- c. Provide that customers who undergo number changes shall not be required to change again for a period of eight to 10 years.
- d. Not favor a particular interest group.
- e. Cover a period of at least five years beyond the predicted date of exhaustion.
- f. Provide that all of the codes in a given area shall exhaust about the same time in the case of splits. In practice, this may not be possible, but severe imbalances, for example, a difference in NPA lifetimes of more than 15 years, should be avoided.
- g. Comply with state and federal statutes, rulings and orders.

2. In order to qualify for approval, the overlay plan must meet the minimum criteria established by this Commission and by the FCC for competitive neutrality at the date by which the overlay would take effect.

3. The adoption of the proposed overlay for the 650 NPA satisfies the prescribed criteria for competitive neutrality, and provides the best overall solution based upon the relief planning criteria applied by the Industry Team.

4. The proposed overlay plan should be approved in accordance with the terms and conditions adopted in the order below.

5. The customer education program to acquaint customers with mandatory 1+10-digit dialing and the overlay, as ordered in D.96-12-086, should incorporate the features set forth below.

6. Since permissive 1+10-digit dialing already is in place for some telecommunications carriers, customers in the 650 NPA should be encouraged to voluntarily dial 1+10-digits for calls, where permissive 1+10-dialing is available within their NPA as part of the education program during the year leading up to the overlay. Customers shall be directed to contact their telecommunications carrier in order to determine whether permissive 1+10-digit dialing is available in their area.

7. The recorded instructional announcement alerting customers who dial seven digits to dial 1+10-digits should be continued indefinitely by all telecommunications carriers following the date mandatory 1 + 10 - digit dialing begins in the 650 NPA in preparation for the overlay area code.

8. The public education plan should focus attention on the education of all classes of customers including children, the elderly, the disabled, as well as to the non-English speaking in the current 650 NPA.

9. The 650 NPA education program should be coordinated and consolidated with that of any adjacent NPAs subject to overlays. The education program should also include other neighboring areas not subject to an overlay since customers therein will still be impacted by the 650 NPA dialing requirements to the extent they temporarily visit and make calls within the 650 NPA region.

10. To a lesser extent, some public education regarding this overlay plan needs to be conducted on a statewide basis, recognizing that California is a highly mobile state, and residents from other California regions may have occasion to travel into the 650 NPA calling area.

11. The industry should give priority to notifying security alarm companies, customers with PBXs, and other entities which will need to reprogram equipment as a result of the change to mandatory 1+10-digit dialing in the 650 NPA.

12. The Commission should place a high priority on promoting the development of measures to promote the efficient utilization of NXX codes so that carriers are not competitively disadvantaged by limited access to numbering resources after the overlay is established.

13. Upon review of further comments from parties, the Commission should make a further assessment of appropriate measures needed to protect existing 1,000-number blocks from contamination pending implementation of number pooling.

O R D E R

IT IS ORDERED that:

1. The proposed overlay plan for the 650 Numbering Plan Area (NPA) as presented by the North American Numbering Plan Administrator (NANPA) identified as Alternative 4 as amended within this Order is hereby approved.

2. All telephone corporations shall implement permissive 1+10-digit dialing by September 18, 1999 and mandatory 1+10-digit dialing on June 17, 2000 for all calls in the 650 NPA.

3. All telephone corporations are hereby ordered to proceed with all due diligence to expeditiously implement the approved 650 NPA overlay relief plan, with the new area code overlay to take effect on September 16, 2000.

4. No later than June 1999, the NANPA shall notify the general public by press release regarding the new area code to be assigned as an overlay covering

the same geographic area as the existing 650 area code. The notice shall set forth the schedule for mandatory 1+10-digit dialing effective June 17, 2000 and for the new area code to be activated effective September 16, 2000.

5. Each telephone corporation, including paging companies and resellers, serving the geographic area covered by the existing 650 NPA shall give written notice to its affected customers of the adopted 650 NPA overlay relief plan without delay and no later than June 1999. The notice shall advise customers as to whether that telephone corporation offers permissive 1+10-digit dialing to reach numbers within their own area code in preparation for the pending overlay, and that 1+10-digit dialing will become mandatory within the boundaries of the 650 area code as a result of the new overlay area code, and that such dialing will be effective for the 650 area code on June 17, 2000.

6. The NANPA shall provide nationwide notification of the adopted 650 NPA relief plan by no later than September 1999.

7. The NANPA shall convene an Industry Team meeting within 60 days following the effective date of this decision for the purpose of developing consensus on the implementation of the public education program for the overlay to include, at a minimum, the elements discussed in Decision 96-12-086, and in the conclusions of law above, and the schedule for mandatory 1+10 digit dialing.

8. The public education program shall give first priority to focusing on the 650 NPA and surrounding areas, and provide for a combination of press releases, television and radio announcements, and billing inserts explaining the effects of the overlay.

9. The Industry Team shall submit a draft proposal of the public education program to the Commission's Consumer Services and Telecommunications Divisions and Public Advisor's Office, including a proposed budget and funding

proposal, for review and approval as scheduled by the assigned Administrative Law Judge (ALJ). The review and approval shall be coordinated among the Public Advisor, the Consumer Services and Telecommunications Divisions, the assigned ALJ, the Coordinating Commissioner for telecommunications, and the Assigned Commissioner.

10. Any existing certificated facilities-based competitive local carrier (CLC) which has not previously been assigned a 650 NPA NXX code, shall file a "Statement of Intent" with the California Code Administrator if it seeks to be assigned such a code in the 90 days prior to the implementation of the overlay, to be filed by September 30, 1999.

11. Any new facilities-based CLCs becoming certificated or intending to become certified between September 30, 1999, and the activation of the overlay NPA on September 16, 2000, shall be required to notify the NANPA within 30 days of certification if they intend to request a 650 NPA NXX code prior to September 16, 2000.

12. The NANPA shall reserve the requisite NXX codes to satisfy the FCC code assignment requirement within the 650 NPA.

13. To the extent NXX codes are needed to meet the FCC requirement, additional codes shall be reserved from the lottery to be made available to new entrants without any codes in the 650 NPA who require one.

14. Within the final 90 days preceding the opening of the overlay NPA, the NANPA shall declare a freeze on further assignments of 650 NPA codes, with the exception of new entrants who require one code to satisfy FCC requirements. The Commission, on its own motion or at the request of the NANPA, reserves the option to reevaluate this freeze as the availability of NXX codes through September 2000.

15. The Commission shall further consider appropriate measures regarding the assignment of telephone numbers from NXX codes in the 650 NPA after the overlay NPA is activated in order to promote competitive neutrality.

16. Pacific shall each file a report on July 7, 1999, reporting as to whether full LNP has been implemented in the 650 NPA including identification and rectification of any LNP-related call completion problems. The report shall be served on parties of record.

17. The NXX codes in the 650 NPA shall remain subject to lottery rationing with the remaining NXX codes in the 650 NPA have been exhausted.

18. A limited exception is granted to the policy in D.96-12-086 calling for the use of geographic splits for NPA relief granted prior to January 1, 2001, to permit implementation of the 650 NPA overlay by September 16, 2000.

This order is effective today.

Dated _____, at San Francisco, California.

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